IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Crl.MC.No. 2977 of 2007()

CRA.112/1994 of ADDL.SESSIONS COURT, KOZHIKODE
ST.2352/1991 of JUDL.MAGISTRATE OF FIRST CLASS, KOYILANDY

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PETITIONER: ACCUSED

P.P.CHATHU,
PUTHENPURAYIL HOUSE, IRIGANNOOR P.O.,
VIA TUNERI, VATAKARA.

BY ADV. SRI.ANIL THOMAS(T)
SMT.K.V.RESHMI

RESPONDENTS: STATE/COMPLAINANT

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1. THE SUB INSPECTOR OF POLICE,
NADAPURAM POLICE STATION.

2. THE STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

3. P.MOHANAN, S/O.KRISHNA KURUP,
PUTHENPURAYIL HOUSE, P.O. KOLLAM, KOYILANDY.

BY ADV. SRI.LIFFY P. FRANCIS FOR R3
PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2977 Of 2007

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Dated this the 5th day of October, 2007

ORDER

The petitioner has been found guilty, convicted and sentenced in a prosecution under section 138 of the Negotiable Instrument Act. The Appellate court dismissed the appeal and revision was preferred before this Court. It was dismissed for non-prosecution. The verdict of guilty conviction and sentence have thus become final.

2. The petitioner faces the sentence of simple imprisonment for a period of three months and to pay a fine of Rs.5,000/- . The fine amount of Rs.5,000/- has now been paid and that is evident from the certificate dated 20.9.07 issued by the Judicial First Class Magistrate Court- Koyilandy which is placed before me for my perusal.

3. The learned counsel for the petitioner submits that subsequent to the dismissal of the revision, the petitioner / accused and the respondent/ complainant have settled their disputes and the entire amounts due to the complainant has been paid and settled. In view of the subsequent settlement/composition, the dictum in Sabu George v. Home Secretary [2007(1) KLT 982]. may be invoked and the substantive sentence of imprisonment imposed on the petitioner may be quashed, it is prayed.

4. The respondents have entered appearance through counsel. Annexure-4 petition has been filed. The learned counsel for the respondent-complainant – Shri. Lify Francis confirms that the matter has been settled and the complainant has compounded the offence allegedly committed by the petitioner. The complainant has no surviving grievances against the petitioner it is submitted.

5. I am satisfied that this is an eminently fit case where the dictum in Sabu George v. Home Secretary [2007(1) KLT 982]. can be invoked in the interests of justice and the substantive sentence of imprisonment imposed on the petitioner can be set aside.

6. In the result, the petition is allowed. The substantive sentence of simple imprisonment for a period of three months imposed on the petitioner as per judgment dated 22.3.94 in S.T.No.2352 of 1991 of the Judicial First Class Magistrate Court- Koyilandy which has been confirmed in appeal and revision is hereby set aside.

7. I make it clear that the petitioner shall not be entitled to release of the fine-an amount of Rs.5,000/- that is already deposited.

(R.BASANT, JUDGE)

sj